REMARKS

The Official Action mailed June 30, 2006, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

Claims 7-9 are pending in the present application, all of which are independent. Claims 7-9 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

The Official Action rejects claims 7-9 under 35 U.S.C. §101, asserting that the claims are directed to "non-statutory subject matter" and that the "process is not useful because its illegal" (page 2, Paper No. 20060622). The Official Action appears to be concerned with recitations in claims 7-9 including the term "copyright." Specifically, the Official Action appears to be concerned with the recitation of "means contained in the control apparatus for judging whether the acquired disk information includes information of claiming a copyright" and "means contained in the control apparatus adapted to operate to initialize a title area in a memory contained in the control apparatus when the information of claiming the copyright is judged to be included ... ." Further, the Official Action asserts that it "illegal to copy without permission" (Id.). The Applicant respectfully disagrees with the rejections under § 101.

The Official Action appears to assume that the present invention can only be used in a manner that violates copyright law. There are numerous legitimate uses for the present invention in a lawful manner. For example, an owner of copyrighted material may wish to make copies for sale to customers.

Also, the present invention, in fact, recognizes and protects copyrighted text data. For example, "If it is judged at Step S32 that the text data is transmitted, the arithmetic and logical processing unit 31 judges whether the received text data contains information of claiming a copyright (Step S35). If the arithmetic and logical processing

unit 31 judges that there is no information of claiming a copyright, it generates title information from the text data, and stores the generated title information in the title area of the memory 35 (Step S36)" (page 25, lines 13-20). However, "If it is judged that there is information of claiming a copyright, the arithmetic and logical processing unit 31 initializes the title area of the memory 35 (Step S37)" (page 25, lines 22-24). That is, the process transfers title information from the text data when such text data is not copyrighted and does not transfer title information from the text data when such text data is copyrighted.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 101 are in order and respectfully requested.

The Official Action rejects claims 7-9 as obvious based on the combination of U.S. Patent No. 6,594,740 to Fukuda and pages 2-4 of the present specification, which the Official Action refers to as "Applicant Admitted Prior Art (AAPA - Background Information)." The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole

1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims, as amended. Independent claims 7-9 have been amended to recite means for judging whether or not a track change has occurred to decide the completion of the recording of one piece of music. The Applicant respectfully submits that Fukuda and AAPA, either alone or in combination, do not teach or suggest the above-referenced features of the present invention.

Since Fukuda and AAPA do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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